(iii) resale of non-interconnected private lines;

(iv) switched basic services over a U.S. carrier's authorized facilities-based private lines;

(v) switched basic services over resold U.S. international private lines.

As stated in Section II.A. supra, FT believes that the Commission's proposal to lift the ECO test for such Section 214 applications would apply to the Sprint proceeding as an "open" or "pending" proceeding at the FCC. Further, the FT/DT investment in Sprint does not present anything resembling a "very high risk to competition," as defined by the Commission in ¶¶ 39-40, nor does FT engage in anti-competitive or fraudulent activity which would warrant denial of such an authorization.[41] Thus, a carrier like FT - from a WTO Agreement country - should be able, without delay, to obtain Section 214 authority on a streamlined, ECO-free, basis at any time from January 1, 1998. Presumably, the Commission would be willing to issue, before January 1, 1998, licenses with an effective date of January 1, 1998.

However, FT disagrees with the Commission's proposal to impose benchmark settlement rate conditions as a condition of granting certain Section 214 authorizations[42], even though FT itself would not be affected by the Commission's benchmarks in view of FT's low accounting rates on the U.S.-France route. FT has already commented on the inappropriateness of the Commission's unilateral approach to accounting rate benchmarks.[43] FT understands from the NPRM in the instant proceeding that the

---

[41] Id. at ¶41.

[42] Id. at ¶50.

[43] See February 7, 1997, FT Comments in the Benchmarks Proceeding, pp. 5-7.

Commission intends to use its benchmark proposals as a tool to reduce the incentive of anti-competitive conduct[44]. However, although the Commission attempts to label such measures as "post-entry" safeguards[45], FT is concerned that the enforcement of benchmarks may become just another trade policy tool. In addition, there is concern that the Commission may use the benchmarks as a pre-entry safeguard thus prohibiting carriers from a country where settlement rates do not fall within prescribed benchmarks from being accorded the benefits of the U.S.' WTO Agreement commitments. Finally, FT believes that the use of benchmark conditions, as proposed in the Commission's Benchmark Proceeding, may be incompatible with WTO Agreement principles of non-discrimination, especially when the standards which will be used by the Commission for modification of such benchmarks are unilateral, unknown and quite possibly arbitrary. Thus, FT disagrees with the Commission's proposal to impose unilateral benchmark settlement rate conditions as a condition of granting any Section 214 authorizations.

Like the Commission, FT believes that the WTO Agreement, with its obligations of opening foreign markets to competition, will exert pressure for reform of the international accounting rate system[46]. As FT has already expressed in its Comments in the Benchmarks Proceeding,[47] competition will drive accounting rates down, and the appropriate forum for accounting rate reform at the present time is the ITU.

---

[44] See NPRM at ¶8, ¶38, ¶51.

[45] Id. at ¶51.

[46] See NPRM at ¶50.

[47] See February 7, 1997, FT Comments in the Benchmarks Proceeding, pp. 5-9.

2. Submarine Cable Landing Authority

FT further agrees with the Commission that it should abolish an ECO-type analysis to applications for foreign ownership in submarine cables (Submarine Cable Landing License Act), and takes note that the Commission expects to grant "most" applications for submarine cable landing licenses.[48] FT cautions the Commission, however, not to use its "compelling public interest reasons" caveat[49] as a way to reintroduce ECO-related factors, or other WTO-incompatible factors, back into the analysis.

3. Section 310 Licenses

FT agrees with the Commission that the ECO test should be eliminated with respect to foreign carriers from WTO Agreement countries that seek to control common carrier radio station licenses pursuant to Section 310(b)(4).[50] The U.S. Agreement WTO commitment requires allowing investors such as FT which are from WTO Agreement countries to invest up to 100% indirectly in common carrier radio licensees. Furthermore, elimination of the requirement should speed investment in the U.S., enhance competition and benefit the U.S. consumer.

With respect to the Commission's query whether it should review "additional investments" (from 25% to 49%) that do not effect a transfer of control,[51] FT believes

---

[48] NPRM at ¶62.

[49] Id.

[50] Id. at ¶74. With respect to applying public interest factors to such cases, FT has certain concerns which are outlined in Section III.D.

[51] NPRM at ¶ 75.

that there is no need to do so. So long as a licensee remains in control, there are no particular issues raised by a foreign carrier increasing its minority stake, absent other indicia of a transfer of control. The WTO Agreement commitment precludes a different result as between a domestic and a foreign investor. Furthermore, prior to an actual transfer of control, the Commission is able to review the transaction to determine whether the transferee is qualified. That review, however, should not turn on the transferee's nationality or aspects of its home market. In particular, the Commission should not examine the home market's competitive and regulatory characteristics, lest it undertake the analysis which is incompatible with the WTO Agreement and which it has also identified as administratively burdensome.[52]

E. The Commission's New Regime Should Provide a Level Playing Field for Competing Alliances

If the Commission's new rules and policies on foreign participation in the U.S. telecommunications market are consistent with the foregoing comments, they will go a long way towards leveling the playing field between the global alliances. Nonetheless, the Commission should of course retain the ability to address any serious risks to competition such as those which arise in relation to the proposed BT-MCI merger.[53]

---

[52] Id. at ¶34.

[53] The proposed 100% cross ownership between BT and MCI does, however, create special problems and may well warrant extra safeguards on BT-MCI since the incentives for BT and MCI to unreasonably discriminate in favor of one another is obviously much greater than might be the case for Sprint, FT and DT. Sprint holds no equity in FT and thus has zero incentive to favor FT; FT holds a mere 10% share of Sprint, and thus has a very limited incentive to favor Sprint. By contrast, the proposed BT-MCI merger would change the initial non-controlling 20% investment by BT in MCI into a 100% control of MCI by BT. For example, allowing ISP flexibility between a merged BT-MCI would raise special problems due to the proposed 100% cross-ownership which may allow BT-MCI to unfairly compete through cross-subsidy games. See also March 17, 1997 Reply

Non-equity alliances such as the AT&T-STET-Unisource alliance[54] also raise special concerns regarding the potential for anti-competitive conduct which the Commission should retain the power to address under its revised rules and policies. As FT has previously explained[55], there is simply no support for the assumption that incentives to discriminate are somehow lessened where a global alliance is operating through "co-marketing" or other arrangements rather than through a venture that is coupled with a limited equity investment. Whether there will be incentives, and which way they will flow, will depend on the terms of the co-marketing and other arrangements. For example, a co-marketing arrangement can allocate revenues to encourage discrimination by non-U.S. carriers, and can be far less transparent to regulators than would be the dividends flowing from a non-controlling equity investment. Thus, under the Commission's revised rules and policies, non-equity international alliances that involve co-marketing or other arrangements between U.S. service providers and non-U.S. carriers should be subject to at least the same scrutiny and safeguards and any other conditions as are applied to equity alliances such as the Sprint-FT-DT alliance. The

---

Reply Comments of France Telecom in The Merger of MCI Communications Corporation and British Telecommunications plc, Applications and Notification, Volumes One, Two and Three (December 2, 1996) (BT-MCI Merger Proceeding), p. 10.

[54] As recently announced, this alliance is expected to be - - once again - - modified to include a 40% share for the three Unisource NV partners (Sweden's Telia, Swiss PTT Telecom, and PTT Telecom of the Netherlands), 30% for AT&T, and 30% for STET/Telecom Italia. See *TR Daily*, July 2, 1997.

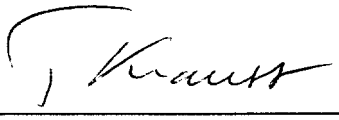
[55] See April 11, 1995 Comments of FT, In the Matter of Market Entry and Regulation of Foreign-Affiliated Entities, IB No. 95-22, at pp. 12 et seq.

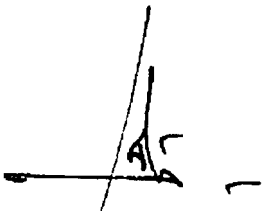
recently announced AT&T / STET-Telecom Italia alliance offers the Commission an opportunity to apply such level-playing field scrutiny.

CONCLUSION

FT respectfully requests that the Commission adopt new rules and policies in this proceeding which are void of ambiguity and consistent with these comments.

Respectfully submitted,





Theodore W. Krauss
Danielle K. Aguto
France Telecom North America
555 13th Street, N.W.
Suite 1100 East
Washington, D.C. 20004
Its Attorneys

Gérard Moine
Alain-Louis Mie
Jean-Louis Burillon
FRANCE TELECOM
Public Affairs Directorate
6, Place d'Alleray
75505 Paris Cedex 15
France

Jeffrey P. Cunard
Debevoise & Plimpton
555 13th Street, N.W.
Suite 1100 East
Washington, D.C. 20004
Counsel to France Telecom

July 9, 1997

CERTIFICATE OF SERVICE

I, Danielle K. Aguto, hereby certify that on this 9th day of July 1997, a true copy of the foregoing Comments of France Telecom was hand-delivered to the persons indicated on the attached service list.

Danielle K. Aguto

Danielle K. Aguto

Chairman Reed E. Hundt
Federal Communications Commission
1919 M Street, N.W., Room 814
Washington, D.C. 20554

Commissioner James H. Quello
Federal Communications Commission
1919 M Street, N.W., Room 802
Washington, D.C. 20554

Commissioner Susan Ness
Federal Communications Commission
1919 M Street, N.W., Room 832
Washington, D.C. 20554

Commissioner Rachelle B. Chong
Federal Communications Commission
1919 M Street, N.W., Room 844
Washington, D.C. 20554

William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

Jackie Chorney
Legal Advisor to Chairman Reed Hundt
Federal Communications Commission
1919 M Street, N.W., Room 814
Washington, D.C. 20554

Rudolfo M. Baca
Legal Advisor to Commissioner Quello
Federal Communications Commission
1919 M Street, N.W., Room 802
Washington, D.C. 20554

James L. Casserly
Legal Advisor to Commissioner Ness
Federal Communications Commission
1919 M Street, N.W., Room 832
Washington, D.C. 20554

Jane Mago
Legal Advisor to Commissioner Chong
Federal Communications Commission
1919 M Street, N.W., Room 844
Washington, D.C. 20554

Peter Cowhey
Acting Chief
International Bureau
Federal Communications Commission
2000 M Street, N.W., Room 800
Washington, D.C. 20554

Diane Cornell, Division Chief Telecommunications Division
International Bureau
Federal Communications Commission
2000 M Street, N.W., Room 800
Washington, D.C. 20554

Troy Tanner, Chief
Policy and Facilities Branch
Telecommunications Division
International Bureau
Federal Communications Commission
2000 M Street, N.W., Room 800
Washington, D.C. 20554

Kerry E. Murray, Esq.
Telecommunications Division
International Bureau
Federal Communications Commission
2000 M Street, N.W., Room 800
Washington, D.C. 20554

Brett Haan
International Bureau
Federal Communications Commission
2000 M Street, N.W., Room 800
Washington, D.C. 20554

Douglas A. Klein
International Bureau
Federal Communications Commission
2000 M Street, N.W., Room 800
Washington, D.C. 20554

International Reference Room
Common Carrier Bureau
Federal Communications Commission
2000 M Street, N.W., Room 102
Washington, D.C. 20554

International Transcription Service
Federal Communications Commission
2100 M Street, N.W., Suite 140
Washington, D.C. 20037